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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,965	07/11/2001	Steven B. Dunn	MBI-1067	9235

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John L Knoble
Knoble & Yoshida LLC
Eight Penn Center Suite 1350
1628 John F Kennedy Blvd
Philadelphia, PA 19103

EXAMINER

WILSON, PAMELA ANNE

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 01/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,965

Applicant(s)

DUNN ET AL.

Examiner

Pamela A Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because: (1) in figure 4 the reference character "44" has been used to designate two separate features. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Additionally, the drawings are objected to because column 4, line 27, recites that the "forward surface of 46 of cam member 43"; however, figure 4 shows reference numeral 46 indicating an arrow of motion as well as a forward surface of cam member 43. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. Again, the objection to the drawings will not be held in abeyance.

Specification Objections

The disclosure is objected to because of the following informalities: in column 4, line 43, "disk" should be changed to --disks--; and in column 4, line 48 and line 53, "disc" should be changed to --disk-- . Appropriate correction is required.

The specification is objected to for failing to provide: (1) a clear explanation of the function of reference numeral **44**, which is presented in the disclosure as being an integral part of the cam member **43** and the cam stop **42**; as recited in column 4, lines

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16-22; and (2) the claim limitation of a "frictional means" and its relationship to the cam member.

The application is further objected to for failing to provide the specification, including the claims, in the proper form which comprises a copy of the printed patent in double column format (so that the patent can be simply copied without cutting), with one page of the patent appearing on only one side of each individual page of the specification of the reissue application. **It should be noted that a re-typed specification is not acceptable in a reissue application; the full copy of the printed patent must be used.** (See 37 CFR 1.173 (a) (1)). Additionally, the submission of additional claims must be submitted in amendment form in the manner set forth by 37 CFR 1.121(b) and MPEP 1453.

Defective Reissue Oath/Declaration

The oath or declaration is objected for failing to identify each inventor, or legal presentation of each inventor, by full name, country of citizenship, residence and mailing address (See 37 CFR 1.63(a) (3) and 35 U.S.C. 115).

Original Patent Required Prior to Allowance

The original patent, or an affidavit or declarations as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed (See 37 CFR 1.178).

Failure of Assignee to Establish Ownership

This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must establish its ownership interest in order to support the consent to a reissue application required by 37 CFR 1.172(a). The assignee's ownership interest is established by:

(a) filing in the reissue application evidence of a chain of title from the original owner to the assignee, **OR**

(b) specifying in the record of the reissue application where such evidence is recorded in the Office (e.g., reel and frame number, etc.); **AND**

© submitting a statement establishing ownership that must be signed by a party authorized to act on behalf of the assignee. The statement may, however, be signed by any person if it contains an averment that the person is empowered or authorized to sign on behalf of the assignee.

The submission with respect to (a) and (b) to establish ownership must be signed by a party authorized to act on behalf of the assignee. See MPEP § 1410.01.

An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6-8 and 12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed subject matter regarding a "frictional means" and a "frictionally engaging" means, which is to support the pegs of the tray when moved between the first storage position and the second operative position, is not adequately supported and defined by the applicant's specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phraseology of: "such as a counter-top", as recited in **claim 5, line 4 and claim 13, line 4**; "and related accessories for drying", as recited in **claim 13, lines 1-2**; "constructed and arranged", as recited in **claim 8, line 2 and claim 10, line 3**; and, "during normal use of said apparatus", as recited in **claim 5, lines 18-19**, is considered to be vague and indefinite.

The use of the term "substantially" in the claim language is considered to be indefinite unless specifically supported by the recitation of the specification. Hence, the

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presence of "substantially", as presented in **claim 5, line 11 and claim 8, line 3**; must be provided with the proper support in the disclosure of the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by The British Patent No. 160,098. The British Patent No. 160,098 (British Patent '098) discloses an apparatus for storing an article which includes a tray having a bottom face that is adapted to be supported by an underlying surface, an upper face, a plurality of pegs extending outwardly from the upper face. These pegs are permanently mounted to the tray and are capable of being positioned adjacent to the upper surface of the tray for the purpose of storage of the apparatus; and further, the pegs are also capable of being positioned so as to extend outwardly from the upper surface so as to enable the support of an article on the upper surface of the apparatus. The British Pat. '098 further includes a collection reservoir for collecting any liquid which might run out or off of the articles while being supported on the upper surface of the tray.

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Allowable Subject Matter

Claims 9-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 5 and 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pamela A Wilson whose telephone number is 703/308-2620. The examiner can normally be reached on Mon - Fri, 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703/308-1935. The fax phone numbers for the organization where this application or proceeding is assigned are 703/305-3463 for regular communications and 703/305-3463 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/308-0861.



Pamela A Wilson
Primary Examiner
Art Unit 3749

paw
January 8, 2002